



Workers Compensation
Commission

March 2019

Matter No:

- 20

FORM 13

Application for Leave to Refer a Question of Law

March 2019

Application

Application for Leave to Refer a Question of Law

This is the approved form to make an application by a party to a dispute, or the Arbitrator, for leave to refer a question of law to the President of the Commission.

This Application, and supporting documentation, must be served on each party to the proceedings and the State Insurance Regulatory Authority prior to lodgment in the Commission.

Applicant:

Respondent:

Filed by:

- | | | |
|---|--|--|
| <input type="checkbox"/> Worker | <input type="checkbox"/> Employer | <input type="checkbox"/> Self-insurer |
| <input type="checkbox"/> Worker representative | <input type="checkbox"/> Employer representative | <input type="checkbox"/> Insurer/scheme agent representative |
| <input type="checkbox"/> Dependant | <input type="checkbox"/> Scheme agent* | <input type="checkbox"/> icare |
| <input type="checkbox"/> Dependant representative | <input type="checkbox"/> Specialised insurer | <input type="checkbox"/> Arbitrator |

*Note scheme agent means scheme agent for the nominal insurer

Name of Arbitrator referring this application to the President:

NOTICE TO PARTIES

Please note that the information contained in the 'notes' to this Form is provided as general information only and does not constitute legal advice. The relevant legislative provisions governing the workers compensation jurisdiction should be consulted before submitting this form to the Workers Compensation Commission.

An application for leave to refer a question of law is to be lodged with the Commission and served on the parties to the proceedings, and the State Insurance Regulatory Authority (Pt 16 r 16.1(2) of the *Workers Compensation Commission Rules 2011*).

The President is not to grant leave for the referral of a question of law unless satisfied that the question involves a novel or complex question of law (s 351(3) of the *Workplace Injury Management and Workers Compensation Act 1998*).

PART 1 – Parties' Details

1.1 Applicant details

Name of applicant:

ABN:

Postal or DX address:

Postcode:

Contact person: (if respondent is a business or organisation)

Email address:

Phone number:

1.2 Applicant representative details

Complete this section only if the applicant has a representative

Firm or organisation:

Postal or DX address:

Postcode:

Name of representative:

Email address:

Phone number:

1.3 Respondent details

Respondent name:

Postal or DX address:

Postcode:

Name of representative:

Email address:

Phone number:

Cross this box if this application relates to more than one respondent (additional respondent schedule must be attached)

1.4 Respondent representative details

Complete this section only if the respondent has a representative

Firm or organisation:

Postal or DX address:

Postcode:

Name of representative:

Email address:

Phone number:

Details of the Question of Law to be Referred

The following should be carefully considered prior to completing this application:

- **Section 351 of the *Workplace Injury Management and Workers Compensation Act 1998***
- **Part 16 r 16.1 of the *Workers Compensation Commission Rules 2011***
- **[Practice Direction No 5](#) – Question of Law**

An application for leave to refer a question of law made by a party or by an Arbitrator will be put before the President **only where the relevant documents have been provided.**

Formatting of written submission

Written submissions **must** be attached to and filed with the Application. They must be typed or written clearly, paginated and set out as illustrated below with sequentially numbered paragraphs and appropriate sub-headings where necessary. The person who prepares the written submissions must sign them at the foot of the document and provide his/her contact details.

PART 2 – An Application Initiated by the Arbitrator’s own Motion

Where the Arbitrator proposes by his or her own motion to seek leave to refer a question of law, the Arbitrator should include the following:

2.1 Whether or not the parties agree to referral

A statement as to whether or not the parties agree to the referral.

2.2 The question to be referred

A clear and concise expression of the precise question of law to be referred to the President.

A statement of the facts that are said to give rise to the question.

2.3 Why the question is novel or complex (s 351(3) of the 1998 Act, Pt 16 r 16.1(3) of the 2011 Rules and Practice Direction No 5)

A statement detailing why the question of law is novel or complex.

PART 3 – Submissions in Support of an Application Initiated by a Party

Submissions in support of the Application for leave to refer the question of law initiated by a party/parties must be attached to this Application and address the following:

3.1 The question to be referred

Written submissions must include a clear and concise expression of the precise question of law to be referred to the President.

3.2 Why the question is novel or complex (s 351(3) of the 1998 Act, Pt 16 r 16.1(3) of the 2011 Rules and Practice Direction No 5)

A statement detailing why the question of law is novel or complex.

A statement of the facts that are said to give rise to the question.

3.3 Submissions on the question of law

Written submissions must detail the party’s position on the question of law.

3.4 On the papers

Written submissions must include a statement as to whether the matter should be determined on the papers, and if not, why not.

3.5 Authorities

Has a list of the authorities (including full citation for published decisions and the date of the decision for unreported cases) referred to and specifically relied upon in submissions been attached to this

Application? Yes No

PART 4 –Certificate of Service

List the documents, names of parties or persons served, the date of service and the method of service.

Document	Name of party or person to the dispute	Service date	Method of service (eg. By hand, DX, fax etc)
		/ /	
		/ /	
		/ /	
		/ /	

PART 5 – Certification and Signature

I
(insert name) hereby certify that a copy of the application (including any attachments) has been served on each party, or person, on the date/s stated in the table above.

Signature of person lodging form: _____ Date: / /

Lodgment Details

Hand delivery Level 20, 1 Oxford Street Darlinghurst NSW 2010
Postal address PO Box 594 Darlinghurst NSW 1300
Document exchange DX 11524 Sydney Downtown
Electronic lodgment registry@wcc.nsw.gov.au
Facsimile 1300 368 018

Privacy of Personal Information

The privacy of personal information is important to the Workers Compensation Commission. The Commission collects personal information to register application forms and make decisions about disputes or claims. The NSW workers compensation laws permit the Commission to collect this information.

The Commission may give personal information to another person or agency (for example a doctor, a party, State Insurance Regulatory Authority) as required or authorised by law.

Decisions by the Commission will generally be published, including on the internet, unless there are exceptional circumstances justifying the decision being withheld.

A person has a right to access his/her personal information and correct any inaccuracies.